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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,824	07/18/2003	Felipe Knop	POU920030114US1	3037
23334 7590 07/16/2007 FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			EXAMINER NGUYEN, TOAN D	
			ART UNIT 2616	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/622,824	Applicant(s) KNOP ET AL.	
	Examiner Toan D. Nguyen	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 6, 12, 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/18/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The applicant is advised to cancel the non-elected claims 13-18 in the next correspondence.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-5, 7-11, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pithawala et al. (US 6,747,957) in view of Garakani et al. (US 6,578,087).

For claims 1, 4 and 5, Pithawala et al. disclose network availability monitor comprising the steps of:

receiving a base address and subnet mask for the plurality of network interfaces

(figure 5, reference step 510, col. 10 lines 9-11);

automatically generating a monitoring address for each of the network interfaces based on the base address, the subnet mask, and the nodes (figure 5, reference 520, col. 10 lines 15-16), the monitoring addresses being generated such that the monitoring address for each of the network interfaces is on a different subnet than the monitoring addresses for all of the other network interfaces in the same node as that network interface (figure 5, reference step 560, col. 10 lines 30-32); and

assigning the monitoring addresses to the network interfaces for use by the monitoring process (figure 5, reference 530, col. 10 lines 15-16).

However, Pithawala et al. do not expressly disclose each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface. In an analogous art, Garakani et al. disclose each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface (col. 9 lines 37-39).

Garakani et al. disclose wherein in the assigning step, each of the monitoring addresses is assigned using IP aliasing by being added as an alias IP address of its network interface (col. 9 lines 37-45 as set forth in claim 4), wherein the automatically generating step includes the sub-step of generating the monitoring address for the first network interface in each node by adding the base address to a node index for that node (col. 9 lines 33-39 as set forth in claim 5).

One skilled in the art would have recognized the each of the monitoring addresses being assigned by being added as an additional network interface address of

its network interface, and would have applied Garakani et al.'s ifIndex in Pithawala et al.'s monitoring functionality of the plurality of interfaces. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Garakani et al.'s determining a path through a managed network in Pithawala et al.'s network availability monitor with the motivation being to provide each interface has an integer index known as an ifIndex (col. 9 lines 38-39).

For claim 2, Pithawala et al. disclose wherein the receiving step includes the sub-step of receiving a base address and subnet mask for the plurality of network interfaces from a user (figure 5, reference step 510, col. 10 lines 9-11).

For claim 3, Pithawala et al. disclose further comprising the step of sending a monitoring message to each of the monitoring addresses in order to determine connectivity of each of the network interfaces (col. 10 lines 6-11).

For claims 7, 10 and 11, Pithawala et al. disclose network availability monitor comprising the steps of:

receiving a base address and subnet mask for the plurality of network interfaces (figure 5, reference step 510, col. 10 lines 9-11);

automatically generating a monitoring address for each of the network interfaces based on the base address, the subnet mask, and the nodes (figure 5, reference 520, col. 10 lines 15-16), the monitoring addresses being generated such that the monitoring address for each of the network interfaces is on a different subnet than the monitoring addresses for all of the other network interfaces in the same node as that network interface (figure 5, reference step 560, col. 10 lines 30-32); and

assigning the monitoring addresses to the network interfaces for use by the monitoring process (figure 5, reference 530, col. 10 lines 15-16).

However, Pithawala et al. do not expressly disclose each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface. In an analogous art, Garakani et al. disclose each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface (col. 9 lines 37-39).

Garakani et al. disclose wherein in the assigning step, each of the monitoring addresses is assigned using IP aliasing by being added as an alias IP address of its network interface (col. 9 lines 37- 45 as set forth in claim 10), wherein the automatically generating step includes the sub-step of generating the monitoring address for the first network interface in each node by adding the base address to a node index for that node (col. 9 lines 33-39 as set forth in claim 11).

One skilled in the art would have recognized the each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface, and would have applied Garakani et al.'s ifIndex in Pithawala et al.'s monitoring functionality of the plurality of interfaces. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Garakani et al.'s determining a path through a managed network in Pithawala et al.'s network availability monitor with the motivation being to provide each interface has an integer index known as an ifIndex (col. 9 lines 38-39).

For claim 8, Pithawala et al. disclose wherein the receiving step includes the sub-step of receiving a base address and subnet mask for the plurality of network interfaces from a user (figure 5, reference step 510, col. 10 lines 9-11).

For claim 9, Pithawala et al. disclose wherein the computer instructions further including instructions for performing the step of sending a monitoring message to each of the monitoring addresses in order to determine connectivity of each of the network interfaces (col. 10 lines 6-11).

For claims 19 and 20, Pithawala et al. disclose network availability monitor comprising the steps of:

a monitoring unit (figure 2, reference 250, col. 6 lines 18-20) for monitoring functionality of the network interfaces (figure 5, reference 500, col. 10 lines 6-8);

means for automatically generating a monitoring address for each of the network interfaces based on a base address, a subnet mask, and the nodes (figure 5, reference 520, col. 10 lines 15-16), the monitoring addresses being generated such that the monitoring address for each of the network interfaces is on a different subnet than the monitoring addresses for all of the other network interfaces in the same node as that network interface (figure 5, reference step 560, col. 10 lines 30-32); and

means for assigning the monitoring addresses to the network interfaces for use by the monitoring unit (figure 5, reference 530, col. 10 lines 15-16).

However, Pithawala et al. do not expressly disclose each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface, and a plurality of network interfaces grouped into nodes. In an

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analogous art, Garakani et al. disclose each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface, a plurality of network interfaces grouped into nodes (col. 9 lines 37-39). Garakani et al. disclose wherein the means for automatically generating generates the monitoring address for the first network interface in each node by adding the base address to a node index for that node (col. 9 lines 33-39 as set forth in claim 20).

One skilled in the art would have recognized the each of the monitoring addresses being assigned by being added as an additional network interface address of its network interface, and would have applied Garakani et al.'s ifIndex in Pithawala et al.'s monitoring functionality of the plurality of interfaces. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Garakani et al.'s determining a path through a managed network in Pithawala et al.'s network availability monitor with the motivation being to provide each interface has an integer index known as an ifIndex (col. 9 lines 38-39).

Allowable Subject Matter

5. Claims 6, 12, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D. Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TN
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